

**BOARD OF ENVIRONMENTAL PROTECTION
Meeting Minutes**

March 1, 2007

A meeting of the Board of Environmental Protection was held on Thursday, March 1, 2007 at the Holiday Inn / Ground Round, Augusta, Maine. Virginia Plummer, Chair, called the meeting to order at 9:00 a.m. with the following individuals present:

Board: Nancy Anderson, Elizabeth Ehrenfeld, M. Wing Goodale, Dick Gould, Don Guimond, Ernest Hilton, Virginia Plummer, and Nancy Ziegler

Absent Board members Denis Culley and Matt Scott
Board member Virginia Plummer departed at approximately 2:20 p.m.

<u>Staff:</u>	Bureau of Air Quality	Deb Avalone-King
	Bureau of Air Quality	Marc Cone
	Bureau of Land and Water Quality	Susan Davies
	Bureau of Land and Water Quality	Jessica Damon
	Bureau of Remediation and Waste Management	John James
	Bureau of Remediation and Waste Management	George Seel
	Bureau of Remediation and Waste Management	Carla Hopkins

Others: Deb Garrett, Deputy Commissioner
Peggy Bensinger, Assistant Attorney General (Workshop & Androscoggin River matter)
Mary Sauer, Assistant Attorney General (morning portion excluding Androscoggin River)
Jan McClintock, Assistant Attorney General (afternoon portion of agenda)
Jerry Reid, Assistant Attorney General (Androscoggin River matter for DEP)
Cynthia S. Bertocci, BEP Executive Analyst
Terry Hanson, Administrative Assistant

(Meeting adjourned at approximately 4:00 p.m.)

The Board convened at 9:00 to conduct a Public Hearing In The Matter Of:

CHAPTER 141 CONFORMITY OF GENERAL FEDERAL ACTIONS / AMENDMENT

I. DEPARTMENTAL

A. COMMISSIONER'S COMMENTS: Deputy Commissioner Deb Garrett reported:

Commissioner Littell is unable to attend today's Board meeting because he is serving as chair at an Ozone Transport Commission (OTC) meeting in Washington DC concerning regional visibility (also referred to as regional haze). Maine has been working with the Northeast and Mid-Atlantic states on this matter and anticipates that this regional effort will result in the introduction of Legislation that promotes Maine's visibility goals.

Acid Rain: An acid rain symposium was held in Portland on February 27, 2007. At the conference DEP introduced the results of a new mapping analysis for identifying forest areas sensitive to nitrogen and sulfur deposition. This mapping is the result of 8-years of work by the New England Governors and Eastern Canadian Premiers Forest Mapping Group. The report identifies regions of the state that are susceptible to the impacts of acid rain.

Legislation: The Legislature has printed 800 bills so far this session. The Joint Standing Committee on Natural Resources has been working on some of these bills. Several significant issues are expected to be heard in the near future (e.g. Regional Greenhouse Gas Initiative, outdoor wood boilers, and the earlier mentioned visibility issue).

Budget: The Department has been working its way through the four step budget process and recently received a unanimous approval vote from the Natural Resource Committee. The Department will now move into the final step, seeking budget approval from the Appropriations Committee.

QUESTIONS:

Board member M. Wing Goodale asked how the acid mapping analysis identified sensitive areas (*soil/vegetation*)

Deputy Commissioner referred Mr. Goodale to the report for detailed information on the indicators used to measure areas at risk. (A copy of this report "Assessment of Forest Sensitivity to Nitrogen and Sulfur Deposition in Maine" was provided to Mr. Goodale). The mapping identified that some 5.9 million acres of forest land in Maine are sensitive to acid deposition; however no forest in Maine is seriously in trouble. The mapping analysis will help landowners and forest managers manage the resource.

B. COMMENTS FROM THE BEP CHAIR: Ms. Plummer thanked Board member Ernest Hilton for taking on the role of presiding officer for the Dragon Products matter.

C. EXECUTIVE ANALYST COMMENTS:

The Board's Executive Analyst noted for Board members that the next meeting (March 15th) is dedicated to conducting a public hearing on fish and eel passage on the Kennebec River. The hearing will be held at the Calumet Club in Augusta and will include an evening session to receive testimony from the general public. It is expected that the hearing will close by noon on March 16th.

D. BOARD CALENDAR: Reviewed

E. DEPARTMENTAL ORDERS: Reviewed

F. EXECUTIVE SESSION: None

II. CONSENT AGENDA ITEMS

Board voted (8-0-0-2) to approve consent agenda item 1 as presented.

Board members Nancy Anderson, Elizabeth Ehrenfeld, M. Wing Goodale, Richard Gould, Don Guimond, Ernest Hilton, Virginia Plummer, and Nancy Ziegler voted to support the motion. Board members Denis Culley and Matt Scott were absent.

1. DUE NORTH PROPERTY DEVELOPMENT, LLC, Madawaska – Administrative Consent Agreement (BRWM)

III. BOARD WORKSHOP

Water Quality terminology // Staff: Susan Davies

No vote was taken.

III. Regular Agenda

1. ANDROSCOGGIN RIVER APPEAL(s) // Verso, Jay ME 0001937 and W000623-5N-F-R; Rumford Paper Company ME 0002054 and W000955-5N-G-R; Livermore Falls Publicly Owned Treatment Works ME 0100315 and W 002654-5L-G-R; and Gulf Island Pond-Deer Rips Hydro Project #L-17100-33-O-N: Appeal of the Fifth Procedural Order

Staff: Cynthia S. Bertocci, BEP Executive Analyst

The Board voted (6-1-1-2) on a motion to deny the appeals submitted by Verso and FPL Energy Maine Hydro and affirm the ruling contained in the Fifth Procedural Order concerning the role of State agency staff at the public hearing. The vote was taken pursuant to 38 M.R.S.A. Section 341-D(4).

Board members Nancy Anderson, Elizabeth Ehrenfeld, Richard Gould, Don Guimond, Virginia Plummer, and Nancy Ziegler voted to support the motion. Board member Ernest Hilton voted opposed. Board member M. Wing Goodale recused. Board members Denis Culley and Matt Scott were absent.

2. CHAPTER 872, EXEMPTIONS FROM THE BAN ON SALE OF MERCURY SWITCHES, RELAYS AND MEASURING DEVICES / AMENDMENTS (adoption)
Staff: John James, Bureau of Remediation and Waste Management

The Board voted (8-0-0-2) on a motion adopt amendments to Chapter 872, and provisionally adopt amendments to Section 9 Application fees, of Chapter 872, Exemptions from the Ban on Sale of Mercury Switches, Relays and Measuring Devices dated February 5, 2007 as presented. The vote was taken pursuant to 38 M.R.S.A. Section 341-D(1-B) and Section 1661-C(6), (7) and (8).

Board members Nancy Anderson, Elizabeth Ehrenfeld, M. Wing Goodale, Richard Gould, Don Guimond, Ernest Hilton, Virginia Plummer, and Nancy Ziegler voted to support the motion. Board members Denis Culley and Matt Scott were absent.

3. CHAPTER 691 RULES FOR UNDERGROUND OIL STORAGE FACILITIES / AMENDMENTS (adoption)
Staff: George Seel, Bureau of Remediation and Waste Management

The Board voted (8-0-0-2) on a motion to adopt amendments to Chapter 691, Rules for Underground Oil Storage Facilities as presented. The vote was taken pursuant to 38 M.R.S.A. Section 341-D(1-B) and 563-B, 564, 565-A and 570-F.

Board members Nancy Anderson, Elizabeth Ehrenfeld, Ernest Hilton, M. Wing Goodale, Richard Gould, Don Guimond, Virginia Plummer, and Nancy Ziegler voted to support the motion. Board members Denis Culley and Matt Scott were absent.

4. CHAPTER 121, EMISSION LIMITATIONS AND EMISSION TESTING OF RESOURCE RECOVERY FACILITIES (and) STATE OF MAINE 111(d) MUNICIPAL WASTE COMBUSTOR STATE PLAN FOR LARGE AND SMALL (CLASS I & II) FACILITIES / REPEAL AND REPLACE (post to public hearing)
Staff: Deb Avalone-King, Bureau of Air Quality

The Board voted (8-0-0-2) on a motion to post to public hearing on April 5, 2006 the proposed amendments to Chapter 121, Emission Limits and Emission Testing of Resource Recovery Facilities as presented. The vote was taken pursuant to 38 M.R.S.A. Section 341-D(1-B), 585A, 585B and 590.

Board members Nancy Anderson, Elizabeth Ehrenfeld, Ernest Hilton, M. Wing Goodale, Richard Gould, Don Guimond, Virginia Plummer, and Nancy Ziegler voted to support the motion. Board members Denis Culley and Matt Scott were absent.

The Board voted (8-0-0-2) on a motion to post to public hearing on April 5, 2006 the proposed amendments to the State of Maine 111(d) Municipal Waste Combustor State Plan for Large and Small (Class I & II) Facilities as presented. The vote was taken pursuant to 38 M.R.S.A. Section 341-D, 585A, 585B and 590.

Board members Nancy Anderson, Elizabeth Ehrenfeld, Ernest Hilton, M. Wing Goodale, Richard Gould, Don Guimond, Virginia Plummer, and Nancy Ziegler voted to support the motion. Board members Denis Culley and Matt Scott were absent.

5. DOWNEAST LNG, Inc. and Downeast Pipeline LLC// ROBBINSTON: Site Location of Development L-23432-26-A-N, Natural Resources Protection Act L-23432-TG-B-N, Air Emissions A-000960-71-A-N, and Section 401 Water Quality Certification (decision on petitions to intervene)

Staff: Jessica Damon, Bureau of Land and Water Quality

The Board voted (8-0-0-2) on a motion to grant petitions to intervene to: Bear Creek Investments, North East Energy Development Company, Quoddy Bay LNG, Harris Point Shore Cabins and Motel, Roosevelt Campobello International Park Commission, Fundy North Fishermen's Association, We Take Care of Our Land and Specified Individuals, Save Passamaquoddy Bay and Specified Individuals, Eastport Port Authority, City of Eastport, Town of Robbinston, Town of Robbinston Residents, Professional Mariners and Waterway Users of the Passamaquoddy Bay Region concerning the license review proceedings of the pending application of Downeast LNG for construction of a liquified natural gas terminal and import facility in Robbinston and pipeline project in Robbinston, Calais, Baring Plantation, Baileyville and Princeton. The vote was taken pursuant to 5 M.R.S.A. Section 9054(1) and 06-096 CMR Chapter 30.

Board members Nancy Anderson, Elizabeth Ehrenfeld, Ernest Hilton, M. Wing Goodale, Richard Gould, Don Guimond, Virginia Plummer, and Nancy Ziegler voted to support the motion. Board members Denis Culley and Matt Scott were absent.

6. DRAGON PRODUCTS COMPANY SOLID WASTE FACILITY LICENSE APPLICATION [S-02077-WO-B-N and L-04152-TH-T-N] (motion to re-open public hearing)

Staff: Cynthia Bertocci, BEP Executive Analyst

Staff: Carla Hopkins, Bureau of Remediation and Waste Management

The Board voted (7-0-0-3) on a motion to deny the request of Neighbors for a Safe Dragon to re-open the hearing record for inclusion of evidence on air emissions associated with the facility's manufacturing process and 2003 air emission license. The vote was taken pursuant to 38 M.R.S.A. Section 341-D(2) and 06-096 CMR Chapter 2 and Chapter 30.

Board members Nancy Anderson, Elizabeth Ehrenfeld, Ernest Hilton, M. Wing Goodale, Richard Gould, Don Guimond, and Nancy Ziegler voted to support the motion. Board members Denis Culley, Virginia Plummer and Matt Scott were absent.

The Board voted (7-0-0-3) on a motion to grant the request of Dragon Products Company to strike the February 13, and 14, 2007 comment letters offered by Neighbors for a Safe Dragon. The vote was taken pursuant to 38 M.R.S.A. Section 341-D(1-B) and 06-096 CMR Chapter 2 and Chapter 30.

Board members Nancy Anderson, Elizabeth Ehrenfeld, Ernest Hilton, M. Wing Goodale, Richard Gould, Don Guimon, and Nancy Ziegler voted to support the motion. Board members Denis Culley, Virginia Plummer and Matt Scott were absent.